

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

DASHAWN SUMRALL

PLAINTIFF

VS.

CIVIL ACTION NO. 1:14-cv-221-LG-JCG

**FREDERICK CORSO, In His Individual and Official Capacities;
JOSEPH TUTEN, In His Individual and Official Capacities;
SHERIFF MELVIN BRISOLARA, In His Individual and Official Capacities;
HARRISON COUNTY, MISSISSIPPI, SHERIFF'S DEPARTMENT;
HARRISON COUNTY, MISSISSIPPI; and
JOHN DOES 1 - 5**

DEFENDANTS

**DEFENDANT FREDERICK CORSO'S RESPONSE IN OPPOSITION TO
PLAINTIFF'S MOTION TO HOLD DISCOVERY IN ABEYANCE
AND TO CONTINUE TRIAL SETTING**

COMES NOW, Defendant, Frederick Corso ("Corso"), by and through his counsel, Smith & Holder, PLLC, and files his Response in Opposition to Plaintiff's Motion to Hold Discovery in Abeyance and to Continue Trial Setting, stating as follows:

1. Plaintiff, Dashawn Sumrall, filed his Complaint on May 22, 2014 seeking damages for alleged personal injuries he sustained as a result of certain violations of his constitutional rights by members of the Harrison County Sheriff's Department ("HCSD") during Plaintiff's incarceration at the Harrison County Adult Detention Center ("HCADC"). [Doc. 1]. Plaintiff named as defendants, Corso and Joseph Tuten ("Tuten"), individuals who were employed as corrections officers with the HCSD at the time of

Plaintiff's alleged injury. [Doc. 1]. Plaintiff has also named Harrison County, Mississippi Sheriff Melvin Brisolara and Harrison County, Mississippi as defendants. [Doc. 1].

2. Plaintiff previously instituted criminal proceedings against Corso via the execution and filing of a private criminal affidavit alleging simple assault on October 17, 2013. A probable cause hearing was held pursuant to § 99-3-28 Miss. Code Ann. (1972), *as amended*, and a warrant was issued for Corso's arrest. Accordingly, misdemeanor criminal charges are currently pending against Corso in the Justice Court of Harrison County, Mississippi, First Judicial District, specifically, Cause No. GM061/5342.

3. Plaintiff served interrogatories on Corso on January 16, 2015. Corso served his responses to these interrogatories on March 3, 2015 and invoked his Fifth Amendment right against self-incrimination in several of his responses due to the pending criminal charges against him which were unilaterally initiated by the Plaintiff. *See* [Doc. 52, Ex. 1].

4. Plaintiff requests the Court enter an order holding discovery in abeyance and continuing the January 2016 trial setting. Corso is exercising his Fifth Amendment right against self-incrimination because of the pending criminal charge against him, and he will continue to do so until that matter is fully resolved. Further, Corso is permitted to appeal an adjudication of guilt against him in the Justice Court to the County Court of Harrison County, Mississippi, First Judicial District as provided in URCCC 12.02. Corso does not admit any liability toward Plaintiff nor does he admit any guilt associated with the criminal proceeding against him. It is the Plaintiff, not law enforcement, who

instituted the criminal proceedings against Corso, and Plaintiff has failed to respond to Corso's discovery requests propounded to Plaintiff on January 18, 2015.

5. In support of this Response, Corso attaches the following Exhibits:

Exhibit "1" - Criminal Affidavit against Frederick Corso in the Justice Court of Harrison County, Mississippi, First Judicial District

Exhibit "2" - First (1st) Set of Interrogatories Propounded to Defendant Frederick Corso by the Plaintiff.

Exhibit "3" - Defendant Frederick Corso's First Set of Interrogatories Propounded to Plaintiff.

Exhibit "4" - Defendant Frederick Corso's First Requests for Production Propounded to Plaintiff;

Exhibit "5" - Letter from Corso's counsel to Plaintiff's counsel dated May 21, 2015.

6. For these reasons which are set forth more fully in the accompanying *Memorandum Brief in Opposition to Plaintiff's Motion to Hold Discovery in Abeyance and to Continue Trial Setting*, Corso prays this Honorable Court deny Plaintiff's Motion to Hold Discovery in Abeyance and to Continue Trial Setting and for any other relief to which he may be entitled to.

RESPECTFULLY SUBMITTED, this the 25th day of May, 2015.

FREDERICK CORSO, DEFENDANT

SMITH & HOLDER, PLLC

By: /s/ CHRISTOPHER SMITH, MSB# 104366

CERTIFICATE OF SERVICE

I, Christopher Smith, of the law firm Smith & Holder, PLLC, hereby certify that I have filed the foregoing Response in Opposition to Plaintiff's Motion to Hold Discovery in Abeyance and to Continue Trial Setting with the Clerk of Court using the ECF system which sent notification of such filing to all participating counsel of record.

SO CERTIFIED, this the 25th day of May, 2015.

/s/ CHRISTOPHER SMITH, MSB# 104366

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